

DIARY FOR FEBRUARY.

1. Fri.....County Court Non-Jury Sittings in York.
Sir Edw. Coke born 1552.
4. MonHilary Term commences. High Court of
Justice Sittings begin.
5. TueMaritime Court sits. W. H. Draper, and C. J.
of C. P., 1856.
10. SunFifth Sunday after Epiphany. Canada ceded
to G. B. 1763. Union of U. and L. C. 1841.
11. MonT. Robertson appointed to Chy Div. 1887.
16. Sat.Hilary Term and High Court Justice Sittings
end. Last day for notices for call for Easter
Term.
17. SunSeptuagesima Sunday.
19. TueSupreme Court of Canada sits.
21. Thur.Chancery Division High Court of Justice sits.
24. SunSexagesima Sunday. St. Matthias.

Early Notes of Canadian Cases.

THE EXCHEQUER COURT OF
CANADA.

BURBIDGE, J.]

[June 30, 1888.

BOURGET v. REGINA.

Compensation and damages—Dedication of highway—Similarity of the law of England and of the Province of Quebec respecting the doctrine of dedication or destination.

This was a claim for \$681, for 2,724 square feet of land in the village of Lauzon, county of Levis, P. Q., expropriated by the Crown for the purposes of the St. Charles branch of the Intercolonial Railway, and for \$1,350 for damages to other lands of the claimant caused by the construction thereof.

Some time not later than the year 1877, the claimant being possessed of property in the village mentioned, divided it into forty-one lots. Through these lots a street was laid out, known by the name of Couillard street, and which connected St. Joseph street with Port Joliette, a small cove or harbor on the River St. Lawrence. The plan of this division of the claimant's lands was duly recorded in the Registry Office for the county of Levis.

In the construction of the railway, the Crown diverted Couillard street, purchasing for that purpose one of the forty-one lots in the aforesaid division of the claimant's lands. The village corporation had never taken any steps to declare Couillard street a public way. It was, however, used as such; was open at both ends, and formed a means of communication between St. Joseph street

and Port Joliette, and work had been done and repairs made thereon under the direction of the village inspector of streets. The village council had also at one time passed a resolution for the construction of a sidewalk on the street, but nothing was done thereunder.

Upon the hearing of the claim the claimant contended that Couillard street, at the time of the expropriation, was not a highway or public road within the meaning of "The Government Railways Act" (44 Vict., c. 25), but was her private property, and that she was entitled to compensation for its expropriation.

The Crown's contention was, that at the date of the expropriation Couillard street was a highway or public road within the meaning of "The Government Railway Act" (44 Vict., c. 25), and that the Crown had satisfied the provisions of s. 5, s.s. 8, and s. 49 thereof, by substituting a convenient road in lieu of the portion of street so diverted, and that the claimant was therefore not entitled to compensation.

Held, (1) That the question was one of dedication rather than of prescription; that the evidence showed that the claimant had dedicated the street to the public, and that it was not necessary for the Crown to prove user by the public for any particular time.

(2) That the law of the Province of Quebec relating to the doctrine of dedication or destination is the same as the law of England.

Semble, That 18 Vict., c. 100, s. 41, s.s. 9, (Can.), is a temporary provision having reference to roads in existence on July 1st, 1855, which had been left open and used as such by the public without contestation during a period of ten years or upwards. See *Myrand v. Legare*, 6 Q.L.R. 120, and *Guy v. City of Montreal*, 25 L.C.J. 132.

Claim dismissed with costs.

Drouin, Q.C., and Angers, for Crown.

I. N. Belleau, Q.C., for claimant.

BURBIDGE, J.]

[Dec. 13, 1888.

REGINA v. POULIOT, et al.

Information—Statutory defence—Demurrer—Illegality of contract—Dominion Elections Act, 1874—Crown rights—Interpretation of statutes.

This was an action at the suit of the Crown